



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/118,234	07/17/1998	RUDI MAYER	10191/789	8795

26646 7590 10/04/2006

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

EXAMINER

TANG, KENNETH

ART UNIT	PAPER NUMBER
----------	--------------

2195

DATE MAILED: 10/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/118,234	Applicant(s) MAYER ET AL.	
	Examiner Kenneth Tang	Art Unit 2195	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 7-12, and 14 is/are rejected.
- 7) ☒ Claim(s) 4, 6 and 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to the Appeal Brief on 8/29/05. Prosecution has been reopened and new grounds of rejections were made.
2. Claims 1-14 are subject to examination.

Allowable Subject Matter

Claims 4, 6, and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1, 3, 5, 7, 9-10, 12 and 14 are rejected under 35 U.S.C. 102(b) as being unpatentable by Crossley (US 4,780,821).**
4. As to claim 1, Crossley teaches a control unit for a system having a plurality of activatable modules for generating information as a function of at least one of a plurality of states of the system, comprising:

Art Unit: 2195

a first storage device for storing information relating to a mutual interference of the modules (col. 4, lines 1-18, col. 12, lines 25-28);

a second storage device for storing state information regarding the modules, the state information indicating which of the modules are currently activated (col. 4, lines 29-32, col. 12, lines 29-32).

a scheduler for activating at least one of the modules and determining as a function of the information stored in the first storage device and the state information stored in the second storage device whether mutual interference occurs if an additional module is activated, wherein the scheduler prevents a simultaneous activation of modules that interfere with each other (col. 4, lines 32-37, col. 8, lines 34-45, col. 12, lines 47-54).

5. As to claims 3, Crossley teaches wherein the scheduler prevents the simultaneous activation of modules that interfere with each other by preventing an activation of the additional module (col. 8, lines 65 through col. 9, line 1).

6. As to claim 5, Crossley teaches wherein the first storage device stores information regarding which modules interfere with one another when they are simultaneously activated (col. 4, lines 1-9).

7. As to claims 7, Crossley teaches wherein each one of the modules and the scheduler includes a program to be processed by a microprocessor (*col. 4, lines 19-25*).

8. As to claim 9, Crossley teaches wherein one of a set of functions appearing to a user as one unit and another set of functions being used to control a uniform function is divided into the modules and are managed separately by the scheduler (col. 12, lines 25-32 and 47-50).

9. As to claim 10, Crossley teaches a method of operating a control unit of a system for activating at least one of a plurality of modules in order to generate information regarding at least one of a plurality of states of the system, comprising the steps of:

providing a first storage device for storing information relating to a mutual interference of the modules(col. 4, lines 1-18, col. 12, lines 25-28);

providing a second storage device storing state information regarding the modules, the state information indicating which of the modules are currently activated (col. 4, lines 29-32, col. 12, lines 29-32);

before an activation of an additional module is performed, determining as a function of the information stored in the first storage device and the state information stored in the second storage device whether the mutual interference occurs if the additional module is activated (col. 4, lines 32-37, col. 8, lines 34-45, col. 12, lines 47-54); and

preventing a simultaneous activation of modules that interfere with each other (col. 8, lines 65 through col. 9, line 1).

10. As to claim 12, it is rejected for the same reasons as stated in the rejection of claim 3.

11. As to claim 14, it is rejected for the same reasons as stated in the rejection of claim 7.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 2 and 11 are rejected under 35 U.S.C. 103(a) as being obvious over Crossley (US 4,780,821) in view of Applicant's Admitted Prior Art in the Specification (hereinafter AAP).

13. As to claims 2 and 11, Crossley is silent in teaching wherein the system includes one of a motor vehicle, an engine, and a transmission. However, AAP teaches a diagnostic device for an engine control unit that has various diagnostic function modules that are activated by a scheduler (see page 1, lines 6-11). The diagnostic function modules check the systems required for the operation of the engine. The scheduler can block certain diagnostic function modules. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include an engine in the system with Crossley's control system that prevents simultaneous activation of modules that interfere with each other because this would prevent faults from occurring (see page 1, lines 6-11).

Art Unit: 2195

14. Claim 8 is rejected under 35 U.S.C. 103(a) as being obvious over Crossley (US 4,780,821).

15. As to claim 8, Crossley teaches wherein each one of the first storage device and the second storage device includes a table and a matrix (col. 3, lines 58-67 through col. 4, lines 1-44). Crossley is silent in having a plurality of tables and matrices. However, it would be obvious to one of ordinary skill in the art to have more tables and matrices in order to hold more data and programs.

Response to Arguments

16. Applicant's arguments have been fully considered but are moot in view of the new grounds of rejections.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth Tang whose telephone number is (571) 272-3772. The examiner can normally be reached on 8:30AM - 6:00PM, Every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2195

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Kt
10/2/06


MENG-AL T. AN
SUPERVISORY PATENT EXAMINER
ELECTRONIC BUSINESS CENTER 2100